

Reg. Fil-0
4-21-75



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
THE TOLEDO EDISON COMPANY and)	Docket No. 50-346A
THE CLEVELAND ELECTRIC ILLUMINATING)	
COMPANY)	
(Davis-Besse Nuclear Power Station,)	
Unit 1))	
)	
THE CLEVELAND ELECTRIC ILLUMINATING)	Docket Nos. 50-440A
COMPANY, ET AL.)	50-441A
(Perry Nuclear Power Plant,)	
Units 1 and 2))	

RULING ON MOTION OF THE CITY
OF CLEVELAND TO CHANGE
PROCEDURAL DATES

By Order of April 29, 1975 (Prehearing Conference Order No. 4), the Board established a timetable for the completion of discovery, the filing of certain prehearing motions and briefs, and the commencement of hearings on October 23, 1975. It was contemplated that for good cause shown, limited additional discovery might be permitted beyond the July 1 termination date set by Prehearing Conference Order No. 4. Subsequent to the issuance of that Order, the parties have pursued an extensive deposition program. Through a series of telephone conference calls among the parties and the Board Chairman, the Board has become aware of the need for an additional period of discovery in order to complete depositions scheduled prior to July 1. The parties have made informal agreements with respect to the scheduling of such depositions, but it has become apparent that

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dates for filing additional pleadings as established in Prehearing Conference Order No. 4 require minor adjustment.

By Motion of July 10, 1975, the City of Cleveland (City) moved the Board to adopt a new schedule as set forth in that Motion. Essentially, that schedule would range from August 15 to August 29 the date upon which parties other than Applicants must inform Applicants of the nature of the case to be presented.* Other dates including those for the filing of written testimony of expert witnesses and pretrial briefs are adjusted by a period of approximately one week in the City proposal. The City proposes the commencement of hearings on October 30, 1975.

By consent of the parties, the City's Motion was discussed during a telephone conference call initiated by the Department of Justice (Justice) on July 14, 1975. During that conference call, the Nuclear Regulatory Commission Staff (Staff) and the State of Ohio took no position with respect to the City's Motion. Justice expressed a concern that delay in receipt of deposition transcripts might imperil its ability to inform Applicants of the nature of the case in a manner contemplated by the Board by the August 29 date. Further discussion revealed that transcripts now are being delivered in a ten day to two week basis. It was suggested that by ordering transcripts on a one day or five day basis for depositions taken

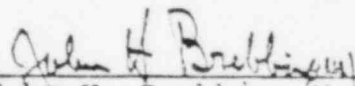
* The Board's expectations in this regard are adequately covered in the transcript of the 4th prehearing conference held on April 21, 1975.

during the last week in July, the Department might find it possible to analyze deposition transcripts and still meet an August 29 date. Except for the problem of meeting the August 29 date, Justice supported the Motion of the City. Applicants initially questioned the October 30 hearing commencement date and asked that the Board consider a commencement date of November 6 or 7. Later in the conference call, however, Applicants stated that they are willing and able to meet the October 30 commencement date.

Following the conference call, the Chairman consulted with the other members of the Board and informed them of the various parties' positions. It was noted that the Chairman had offered the parties an opportunity to develop further these positions at a prehearing conference if any party so requested; but the parties were informed that in the absence of such request, the Board would rule on the City's Motion without receipt of further pleadings. No party has requested a prehearing conference nor expressed a desire to file additional pleadings. The Board considers the City's proposal to be reasonable and appropriate considering the magnitude of the deposition program.

Accordingly, the Motion of the City to change procedural dates is hereby GRANTED.

ATOMIC SAFETY AND LICENSING BOARD



John H. Brebbia, Member

John M. Frysiak
John M. Frysiak, Member

Douglas V. Rigler
Douglas V. Rigler, Chairman

Dated at Bethesda, Maryland
this 21st day of July 1975.